

Application No. 10/613,556
Response to Office Action

Customer No. 01933

R E M A R K S

Reconsideration of this application, as amended, is respectfully requested.

THE TITLE

The title has been amended to more clearly indicate the nature of the invention to which the claims are directed, as required by the Examiner.

THE CLAIMS

Claim 9 has been amended to clarify that the step section (which defines a path from the seat to outside of the vehicle) is provided adjacent to and directly in front of the seat-side block.

In addition, claim 22 has been amended to clarify that the path defined by the step section extends from the seat through a section adjacent to and directly in front of the seat-side block to a lateral exit position on the upper swing body.

The amendments to claims 9 and 22 are clearly supported by Fig. 2.

No new matter has been added, and it is respectfully requested that the amendments to the claims be approved and entered.

Application No. 10/613,556
Response to Office Action

Customer No. 01933

THE PRIOR ART REJECTION

Claims 9, 22 and 23 were rejected under 35 USC 103 as being obvious in view of the previously cited combination of USP 5,975,833 ("Yamada et al"), USP 4,039,305 ("Livesay") and USP 4,878,924 ("Yano et al"). This rejection, however, is respectfully traversed.

In the Office Action dated April 13, 2006, the Examiner identifies a "seat-side block" in Yamada et al as being a portion under the oil tank cover 46 in cover 8 that includes the working oil tank 44. That is, the Examiner asserts that a portion of the hydraulic excavator of Yamada et al that is behind the cab 7 is a seat-side block in the manner of the claimed present invention.

In addition, the Examiner also relies upon Fig. 4 of Yamada et al to assert that Yamada et al discloses a step section which defines a path from the seat to outside of the vehicle and which is provided "on a front side" of the seat-side block. The Examiner does not explicitly point to a structure in Yamada et al, but the Examiner appears to be referring to the space inside the cab 7 of Yamada et al, which is on a front side of the hydraulic excavator with respect to the portion behind the cab 7. The Examiner justifies the interpretation of this space in Yamada et al as being a step section in the manner of the present invention because "[c]laim 9 merely calls for the path to be provided on a front side of the seat-side block. It does not

Application No. 10/613,556
Response to Office Action

Customer No. 01933

call for the path to be adjacent to the seat-side block, directly in front of the seat-side block or entirely in front of the seat-side block as Applicant seems to argue. Therefore, the rejection remains."

Claim 9 has been amended to clarify that the step section defines a path from the seat to outside of the vehicle and is provided adjacent to and directly in front of the seat-side block. In addition, claim 22 has also been amended to clarify that the path defined by the step section extends from the seat through a section adjacent to and directly in front of the seat-side block to a lateral exit position on the upper swing body.

Accordingly, it is respectfully submitted that the Examiner's reasoning in rejecting claim 9 and claims 22 and 23 depending therefrom is no longer applicable, and it is again respectfully submitted that Yamada et al does not disclose, teach or suggest a step section as recited in amended independent claim 9.

Indeed, it is respectfully pointed out that the space inside the cab 7 of Yamada et al is not adjacent to and directly in front of the structure that the Examiner has identified as a seat-side block in Yamada et al.

In addition, as pointed out in the Amendment filed on February 21, 2006, it is respectfully submitted that in Yamada et al, there is negligible space in front of the cover 8, which

Application No. 10/613,556
Response to Office Action

Customer No. 01933

covers "most of an area over the turning frame 3 except for the cab 7." (See Figs. 1, 4 and 9 of Yamada et al.) And it is respectfully pointed out that according to Yamada et al only a limited amount of space is provided adjacent to the cab to allow for attachment of the working implement.

That is, it is respectfully submitted that Yamada et al does not disclose, teach or suggest any structure that reasonably corresponds to a step section which defines a path from the seat to outside of the vehicle and which is provided adjacent to and directly in front of the seat-side block. And it is respectfully submitted that the features of the present invention as recited in dependent claims 22 and 23 are also clearly not disclosed, taught or suggested by Yamada et al.

Livesay and Yano et al, moreover, have been cited for the disclosure of features relating to bubble removers, and it is respectfully submitted that Livesay and Yano et al also do not disclose, teach or suggest the above described features of the claimed present invention.

In view of the foregoing, it is respectfully submitted that amended independent claim 9 and claims 22 and 23 depending therefrom all clearly patentably distinguish over Yamada et al, Livesay and Yano et al, taken singly or in any combination, under 35 USC 103.

Application No. 10/613,556
Response to Office Action

Customer No. 01933

Entry of this Amendment, allowance of the claims and the passing of this application to issue are respectfully solicited.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,

/Douglas Holtz/

Douglas Holtz
Reg. No. 33,902

Frishauf, Holtz, Goodman & Chick, P.C.
220 Fifth Avenue - 16th Floor
New York, New York 10001-7708
Tel. No. (212) 319-4900
Fax No. (212) 319-5101

DH:iv